

HOUSE BILL No. 1351

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-13-14-16; IC 12-14-5.4; IC 12-14-30-3.

Synopsis: Welfare matters; drug testing. Requires the division of family resources to: (1) apply for a waiver to require certain public assistance recipients to show photo identification when using the recipient's electronic benefits transfer (EBT) card; and (2) establish a pilot program within the Supplemental Nutrition Assistance Program (SNAP) to allow SNAP benefits to be used only for food and beverages that have sufficient nutritional value, as determined by the division of family resources. Makes an exception to the photo identification requirement for recipients who are disabled or at least 65 years of age. Requires the office of the secretary of family and social services (office) to administer a drug testing program (program) for individuals who are receiving Temporary Assistance for Needy Families (TANF) assistance or receiving TANF assistance on behalf of a child. Establishes requirements for the program and ineligibility penalties. Prohibits an individual who is ineligible to receive TANF assistance under the program from receiving assistance on behalf of a child and provides for an exception. Requires the office to collect data to assess and avoid discrimination in the program. Requires the office to provide information to the Indiana housing and community development authority and any division of the office that implements the federal Supplemental Nutrition Assistance Program concerning an individual who tests positive for controlled substances. Requires the department of workforce development to submit a report to the legislative council and the unemployment insurance oversight committee concerning certain unemployment topics.

Effective: Upon passage; July 1, 2014.

McMillin

January 15, 2014, read first time and referred to Committee on Family, Children and Human Affairs.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1351

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-43.3 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2014]: **Sec. 43.3. "Controlled substance", for purposes of**
- 4 **IC 12-14-5.4 and this chapter, has the meaning set forth in**
- 5 **IC 35-48-1-9.**
- 6 SECTION 2. IC 12-7-2-74.3, AS ADDED BY P.L.197-2013,
- 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2014]: Sec. 74.3. "EBT card", for purposes of IC 12-13-14-15
- 9 **and IC 12-13-14-16**, has the meaning set forth in IC 12-13-14-15(a).
- 10 SECTION 3. IC 12-7-2-111 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 111. (a) "Immediate
- 12 family", for purposes of the statutes listed in subsection (b), means the
- 13 following:
- 14 (1) If a Medicaid applicant is married, the applicant's spouse and
- 15 dependent children less than twenty-one (21) years of age.
- 16 (2) If a Medicaid applicant is not married, the following:



(A) If the applicant is divorced, the parent having custody.

(B) If the applicant is less than twenty-one (21) years of age:

(i) the parent having custody; and

(ii) the dependent children less than twenty-one (21) years of age of the parent or parents.

(C) If clauses (A) and (B) do not apply, the applicant's parents.

(b) ~~This section~~ **Subsection (a)** applies to the following statutes:

(1) IC 12-14-1 through IC 12-14-9.5, **except IC 12-14-5.4.**

(2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(c) **"Immediate family", for purposes of IC 12-14-5.4, means any of the following:**

(1) A parent.

(2) A stepparent.

(3) A grandparent.

(4) A sibling who is at least twenty-one (21) years of age.

(5) A legal guardian.

SECTION 4. IC 12-7-2-189.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 189.9. "TANF assistance", for purposes of IC 12-14-5.4, means assistance under the federal Temporary Assistance for Needy Families program under 42 U.S.C. 601 et seq.**

SECTION 5. IC 12-7-2-190.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 190.1. "Tests negative" or "testing negative", for purposes of IC 12-14-5.4, means that an individual:**

(1) tests negative for the use of a controlled substance (as defined in IC 35-48-1-9) in the individual's body; or

(2) tests positive for the use of a controlled substance in the individual's body but has:

(A) a valid prescription; or

(B) an order of a practitioner acting in the course of the practitioner's professional practice;

for the controlled substance.

SECTION 6. IC 12-7-2-190.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 190.2. "Tests positive" or "testing positive", for purposes of IC 12-14-5.4, means an individual:**

(1) tests positive for the presence of a controlled substance (as defined in IC 35-48-1-9) in the individual's body; and

(2) does not possess:



1 (A) a valid prescription; or

2 (B) an order of a practitioner acting in the course of the
3 practitioner's professional practice;

4 for the controlled substance.

5 SECTION 7. IC 12-13-14-16 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2014]: **Sec. 16. (a) This section does not apply**
8 **to an EBT program recipient who is:**

9 (1) at least sixty-five (65) years of age; or

10 (2) disabled, as determined by the division.

11 The division shall indicate on the recipient's EBT card that the
12 recipient is exempt from this section.

13 (b) Not later than August 1, 2014, the division shall require an
14 EBT program recipient to show the recipient's photo identification
15 issued by a federal, state, or local governmental unit to a retailer
16 when using the recipient's EBT card for purchases.

17 (c) The division shall seek federal approval and apply for any
18 federal waiver or permission necessary to implement this section.

19 SECTION 8. IC 12-14-5.4 IS ADDED TO THE INDIANA CODE
20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2014]:

22 **Chapter 5.4. Drug Testing Program**

23 **Sec. 1. This chapter applies to an individual who:**

24 (1) is eligible to receive TANF assistance or who receives
25 TANF assistance on behalf of a child; and

26 (2) is at least eighteen (18) years of age.

27 **Sec. 2. (a) The office of the secretary shall develop and establish**
28 **a program in accordance with this chapter to test for the illegal use**
29 **of a controlled substance by an individual described in section 1 of**
30 **this chapter.**

31 (b) The office of the secretary shall implement a program
32 established in accordance with this chapter not later than July 1,
33 2015.

34 **Sec. 3. An individual described in section 1 of this chapter shall**
35 **take a substance abuse subtle screening inventory test**
36 **administered in written or electronic form by a county office.**

37 **Sec. 4. A county office shall provide the following information**
38 **in writing to an individual described in section 1 of this chapter at**
39 **the time the individual applies for TANF assistance:**

40 (1) The individual is required to take a written or electronic
41 substance abuse subtle screening inventory test.

42 (2) The individual may be subject to random drug testing



based on the results of the test described in subdivision (1).

(3) The individual may be subject to drug testing if the county office believes, based on reasonable suspicion as set forth in section 5 of this chapter, that the individual is engaged in the illegal use of a controlled substance.

(4) If the individual tests positive on a drug test administered under this chapter, the individual may be ineligible:

(A) for TANF assistance; and

(B) to receive TANF assistance on behalf of a child.

(5) If the individual tests positive on a drug test administered under this chapter, the amount of the cost of the drug test will be withheld from any future TANF assistance the individual receives if the individual continues to receive TANF assistance.

(6) If the individual tests positive on a drug test administered under this chapter, the amount of the cost of any subsequent drug test the individual is required to undergo will be withheld from the TANF assistance the individual receives, if the individual continues to receive TANF assistance, regardless of whether the individual tests positive or tests negative on the subsequent drug test.

Sec. 5. (a) A county office is considered to have reasonable suspicion to believe that an individual is engaged in the illegal use of a controlled substance if one (1) or more of the following apply:

(1) The individual has been charged with an offense under IC 35-48 (controlled substances).

(2) The results of the substance abuse subtle screening inventory test indicate that the individual is at risk for the illegal use of a controlled substance.

(3) The individual has previously failed a drug test administered under this chapter.

(b) If a county office has knowledge that an individual has been formally charged with an offense described in subsection (a)(1), the county office shall administer a drug test to the individual.

(c) If a county office has reasonable suspicion to believe from the results of a substance abuse subtle screening inventory test that an individual is engaged in the illegal use of a controlled substance, the individual shall be placed in a pool of individuals who are subject to drug testing described in section 6 of this chapter.

(d) If a county office has reasonable suspicion to believe that an individual is engaged in the illegal use of a controlled substance as the result of failing a drug test administered under this chapter, the



individual shall be placed in a pool of individuals who are subject to random drug testing as described in section 7 of this chapter.

Sec. 6. The office of the secretary shall administer a drug test to at least fifty percent (50%) of the pool of individuals described in section 5(c) of this chapter. An individual may not be tested more than once under this section.

Sec. 7. The office of the secretary shall administer random drug tests to fifty percent (50%) of the pool of individuals described in section 5(d) of this chapter each month.

Sec. 8. A county office shall provide a list of drug abuse treatment programs to any individual who tests positive under this chapter.

Sec. 9. (a) An individual who tests positive under this chapter and provides evidence that the individual is participating in a drug abuse treatment program shall continue to receive TANF assistance. However, the office of the secretary shall administer a drug test to the individual regularly at intervals of at least twenty (20) days and not more than thirty (30) days until the individual tests negative in two (2) consecutive drug tests.

(b) If an individual does not test negative in two (2) consecutive drug tests as described in subsection (a) within four (4) months after the date the office of the secretary begins testing the individual regularly under subsection (a), the individual is ineligible to receive TANF assistance for three (3) months after the date the office of the secretary determines that the individual is unable to test negative on two (2) consecutive drug tests.

(c) If an individual:

(1) tests positive under this chapter; and

(2) fails to provide, not later than thirty (30) days after the date the individual tests positive, evidence that the individual is participating in a drug abuse treatment program;

the individual is ineligible to receive TANF assistance for three (3) months after the thirty (30) day period described in subdivision (2).

(d) An individual who is ineligible under subsection (b) or (c) may reapply for TANF assistance after the applicable three (3) month ineligibility period. Upon reapplying, the individual must test negative on a drug test before the individual may receive TANF assistance.

(e) If an individual described in subsection (d) tests positive on the drug test administered for the TANF reapplication process, the individual is permanently ineligible to receive TANF assistance for the individual.



Sec. 10. (a) An individual who:

(1) reapplies for TANF assistance under section 9(d) of this chapter; and

(2) is eligible to receive TANF assistance;

is subject to random drug testing as described in subsection (b) for as long as the individual receives TANF assistance.

(b) The office of the secretary shall administer random drug tests to fifty percent (50%) of the pool of individuals described in subsection (a) each month.

(c) Section 9 of this chapter applies to an individual described in subsection (a) who tests positive on a subsequent drug test administered in accordance with this section.

Sec. 11. If an individual refuses to take a substance abuse subtle screening inventory test or drug test under this chapter, the individual is ineligible to receive TANF assistance under this chapter.

Sec. 12. (a) An individual who is ineligible to receive TANF assistance under this chapter is ineligible to receive TANF assistance on behalf of another individual.

(b) Except as provided in section 13 of this chapter, if an individual is permanently ineligible to receive TANF assistance under this chapter and the individual receives or will receive TANF assistance on behalf of a child, the following apply:

(1) The child's eligibility for TANF assistance is not affected.

(2) The individual may not receive TANF assistance on behalf of the child.

(3) Subject to subsection (e), the individual may designate an immediate family member of the child to act as a protective payee for the child.

(c) Subject to subsection (h), if an immediate family member of the child:

(1) is not available to act as the protective payee; or

(2) declines to act as the protective payee;

for the child, the ineligible individual described in subsection (b) may designate another individual, upon approval by the division, to act as a protective payee for the child.

(d) Subject to subsection (h), if an ineligible individual described in subsection (b) does not designate an immediate family member of the child or another individual to act as a protective payee for the child, the division shall designate an immediate family member or another individual to act as a protective payee for the child.

(e) Subject to subsections (h) and (i), an immediate family



member of the child or another individual designated as a protective payee under this section shall:

- (1) receive TANF assistance on behalf of the child; and
- (2) act as a protective payee in regard to the TANF assistance received on behalf of the child.

(f) An immediate family member of the child or another individual who is designated as a protective payee for the child shall undergo a drug test before the family member or individual may act as a protective payee under this section.

(g) The immediate family member or individual described in subsection (f) shall pay the cost of the drug test under subsection (f).

(h) If the immediate family member or individual described in subsection (f) tests positive on the drug test or fails to pay the cost of the drug test under subsection (g), the immediate family member or individual may not act as a protective payee for the child.

(i) An immediate family member of the child or another individual who has been designated as a protective payee of the child may not continue to act as a protective payee for the child under this chapter if the immediate family member or individual is charged with a felony while the immediate family member or individual is receiving TANF assistance on behalf of a child under this chapter.

Sec. 13. (a) If an individual:

- (1) is ineligible to receive TANF assistance under this chapter;
- (2) was not a parent or guardian of a child at the time the individual became ineligible to receive TANF assistance as described in subdivision (1);
- (3) becomes a parent or guardian of a child after the individual becomes ineligible to receive TANF assistance as described in subdivision (1); and
- (4) tests negative on a drug test administered by the office of the secretary;

the individual may receive TANF assistance on behalf of the child.

(b) An individual described in subsection (a) is subject to random drug testing as described in section 10(b) of this chapter for as long as the individual receives TANF assistance on behalf of the child.

(c) If an individual described in subsection (a) tests positive on a drug test administered by the office of the secretary, the individual may not receive TANF assistance on behalf of the child and a protective payee must be designated for the child as provided



1 in section 12 of this chapter.

2 Sec. 14. (a) Except as provided in section 12(g) of this chapter
3 and subsections (b) and (c), the office of the secretary shall pay the
4 costs of a drug test administered under this chapter.

5 (b) If an individual tests positive on a drug test administered
6 under this chapter, the office of the secretary shall withhold the
7 amount of the cost of the drug test from the next payment of TANF
8 assistance the individual receives if the individual receives TANF
9 assistance.

10 (c) If an individual tests positive on a drug test administered
11 under this chapter, the office of the secretary shall withhold the
12 amount of the cost of any subsequent drug tests that the individual
13 is required to undergo from the next payment of TANF assistance
14 the individual receives if that individual receives TANF assistance.

15 Sec. 15. (a) This chapter is subject to administrative hearing
16 procedures under IC 4-21.5.

17 (b) The program under this chapter must include an appeals
18 process for individuals.

19 Sec. 16. A drug test administered under the program must be
20 performed by a:

- 21 (1) SAMHSA (as defined in IC 22-10-15-3) clinical laboratory;
- 22 or
- 23 (2) clinical laboratory holding a federal Clinical Laboratory
- 24 Improvement Act (CLIA) certificate or a CLIA certificate of
- 25 accreditation.

26 Sec. 17. The office of the secretary shall notify the department
27 of child services regarding a child who has had an immediate
28 family member or other individual designated as a protective
29 payee under this chapter.

30 Sec. 18. The office of the secretary shall provide to:

- 31 (1) the Indiana housing and community development
- 32 authority established by IC 5-20-1-3; and
- 33 (2) any division of the office of the secretary that implements
- 34 SNAP (as defined as IC 12-14-30-1);

35 the name of an individual who has tested positive under this
36 chapter.

37 Sec. 19. The office of the secretary's records concerning the
38 results of a drug test under this article may not be admitted against
39 a defendant in a criminal proceeding.

40 Sec. 20. The office of the secretary shall collect data to assess
41 and ensure that there is no discrimination based on race, ethnicity,
42 or sex regarding the pool of individuals who are drug tested under



1 the program established under this chapter.

2 Sec. 21. The office of the secretary may adopt rules under
3 IC 4-22-2 necessary to implement this article.

4 SECTION 9. IC 12-14-30-3 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2014]: Sec. 3. (a) The division shall establish a pilot program for
7 SNAP that allows SNAP benefits to be used only for food, food
8 products, and beverages that have sufficient nutritional value, as
9 determined by the division.

10 (b) In determining sufficient nutritional value under subsection
11 (a), the division shall consider the food limitations set forth in the
12 women, infants, and children nutrition program (WIC) (under
13 IC 16-35-1.5).

14 (c) If the division determines that federal approval is needed to
15 implement the pilot program described in this section, the division
16 shall request federal approval of the pilot program and implement
17 the pilot program not later than thirty (30) days after the required
18 approval is obtained.

19 (d) The division may adopt rules under IC 4-22-2 necessary to
20 implement this section.

21 SECTION 10. [EFFECTIVE UPON PASSAGE] (a) The
22 department of workforce development shall, before July 1, 2014,
23 submit a report to the legislative council and the unemployment
24 insurance oversight committee concerning the options available to
25 the state, including the possibility of a waiver from the federal
26 government, to condition the receipt of unemployment benefits,
27 after the sixth week during which the benefits are received, on a
28 recipient being required to choose one (1) of the following:

29 (1) Enrolling in a training program that will result in an
30 industry recognized certificate.

31 (2) Working on projects that are assigned by and benefit the
32 county or municipality in which the recipient resides.

33 The report must be in an electronic format under IC 5-14-6.

34 (b) This SECTION expires July 1, 2015.

35 SECTION 11. An emergency is declared for this act.

